

Act No. 192 (S.287). Human services; judiciary

An act relating to involuntary treatment and medication

This act amends existing provisions pertaining to the judicial processes for involuntary commitment and medication in the context of treating persons with serious mental illness. One significant change established by this act is the event that triggers the emergency examination. Under the act, the emergency examination must occur no later than 24 hours after initial certification rather than one working day after hospital admission. The effect of this change is that a proposed patient cannot be held indefinitely without the commencement of commitment proceedings. Rather, this change accelerates the filing of the application for involuntary treatment and appointment of counsel, both of which are contingent upon the emergency examination having occurred.

The act creates a new probable cause review that occurs within three days of the filing of an application for involuntary treatment. This new judicial process is a paper review based on the emergency examination and application for involuntary treatment and does not require a hearing. The application for involuntary treatment cannot be dismissed solely because the review does not occur within three days, if the Court finds good cause for the delay.

The act allows applications for involuntary treatment to be expedited in certain circumstances, meaning that the hearing occurs within 10 days of the order being granted. The Court must expedite applications for involuntary treatment for persons demonstrating a significant risk of causing the person or others serious bodily injury when clinical interventions have failed to address the risk of harm. The Court may expedite applications for involuntary treatment for persons who have received involuntary medication during the past two years, and based on the person's response to treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

In general, a hearing on the application for involuntary treatment must occur prior to the filing of an application for involuntary medication. This act creates three circumstances in which the application for involuntary medication can be filed while the application for involuntary treatment is pending. First, if the person's application for involuntary treatment was expedited due to the fact that he or she poses a risk of serious bodily injury, the person's application for involuntary medication may be filed while his or her application for involuntary treatment is pending. Second, the person may waive the right to have a hearing on the application for involuntary treatment prior to the hearing on the application on involuntary medication. Third, if a person has not had a hearing on the application for involuntary treatment within 26 days of its filing, an application for involuntary medication may be filed if the treating psychiatrist certifies that there is good cause to believe that additional time will not result in the person regaining competence or establishing a therapeutic relationship with providers, and serious deterioration of the person's mental condition is occurring.

When an application for involuntary medication is filed while the application for involuntary treatment is pending due to either the person presenting a risk of serious bodily injury or the hearing not occurring within 26 days, the two applications must be consolidated. However, when consolidation occurs, this act requires a decision on the

application for involuntary treatment to be rendered before a decision on the application for involuntary treatment.

Other provisions of note added by this act include the submission of a report by the Commissioner of Mental Health to the Court, Secretary of Human Services, and patient's attorney every time a hearing on an application for involuntary treatment has not occurred within 60 days of its filing and the requirement that clear and convincing evidence that the treatment is appropriate be found prior to a Court order for a long-acting injection. In addition, this act removes the automatic stay on orders for involuntary medication until an appeal is taken.

Multiple effective dates, beginning on July 1, 2014